

Filed for intro on 02/15/2001

HOUSE BILL 1542
By Winningham

AN ACT to amend Tennessee Code Annotated, Title 4; Title 54;
Title 64; Title 65 and Title 67, relative to railroads.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 65, Chapter 12, is amended by adding
Sections 2 through 7 of this act as a new, appropriately designated part thereto.

SECTION 2. This act shall be known and may be cited as the "Tennessee Railroad
Crossing Protection Act of 2001".

SECTION 3.

(a) Any railroad operating in whole, or in part, in Tennessee, shall report all
railroad crossing accidents to the department of transportation within fourteen (14) days
of the occurrence of such accident. A railroad submitting a copy of an Association of
American Railroads (AAR) form to the department within fourteen (14) days of such
accident shall be deemed to be in compliance with the provisions of this section;
provided that such form includes, at a minimum, the date of the accident, the type of
accident and the number of injuries or fatalities involved, if any.

(b) Any railroad failing to comply with the provisions of subsection (a) shall be assessed a civil penalty of fifty dollars (\$50.00) for each day beyond the fourteen (14) day reporting period that such report is not provided to the department.

SECTION 4.

(a) Any railroad operating in whole, or in part, in Tennessee, shall report all new crossings, modified railroad crossings and closed railroad crossings to the department of transportation within fourteen (14) days of any crossings' opening, modification or closure. A railroad submitting a copy of an Association of American Railroads (AAR) Crossing Inventory Form to the department within fourteen (14) days of such opening, modification or closure shall be deemed to be in compliance with the provisions of this section.

(b) Any railroad failing to comply with the provisions of subsection (a) shall be assessed a civil penalty of fifty dollars (\$50.00) for each day beyond the fourteen (14) day reporting period that such report is not provided to the department.

SECTION 5.

(a)

(1) Notwithstanding any provision of law to the contrary, after January 1, 2002, no railroad grade crossing, public or private, shall be constructed, or converted from a private crossing to a public crossing, without the entity desiring such crossing improvement having first:

(A) Submitted the plans for the construction or conversion of the proposed crossing to the department; and

(B) Obtained the department's approval of those plans.

(2) No railroad grade crossing, public or private, constructed, or converted from a private crossing to a public crossing, after January 1, 2002, shall be opened to vehicular traffic until such crossing is inspected by the

department to assure that the crossing was constructed, or converted, in accordance with the plans approved pursuant to subdivision (1).

(b) The department shall promulgate standards pertaining to the construction or conversion of all grade crossings, including appropriate warning devices. The department shall not approve any plans for construction or conversion of a railroad grade crossing that do not comply with the promulgated standards.

(c) The department shall charge a fee for review and approval of plans for construction or conversion of railroad crossings and the inspection of the completed crossing. The amount of such fee shall be a sum sufficient to offset the cost to the department of performing these services. Such fee shall be paid by the party seeking approval of the plans for the crossing.

(d) The provisions of this section shall not apply to any railroad grade crossing constructed, or converted from a private crossing to a public crossing, before January 1, 2002.

(e) Upon receipt of an application for approval of plans under this section, the department shall notify the affected railroad, if it is not itself the entity seeking construction or conversion, and the governmental body having jurisdiction over the proposed location.

(f) Nothing in this section shall be construed as giving the department the authority to permit the construction of railroad grade crossings on roads not designated as being on the state system of highways.

(g) Any person failing to comply with any provision of this section shall be assessed a civil penalty of five hundred dollars (\$500) for each separate violation.

SECTION 6.

(a)

(1) The department shall publish a list of railroads authorized to receive, or receiving, any funds administered in whole, or in part, by the department to perform repairs, improvements or upgrades at any railroad crossing.

(2) Such list shall be published on the department's web page as authorized pursuant to § 54-1-131 and shall be updated regularly on the first Tuesday of each month. The list shall include the name of the railroad, the location of the railroad crossing, the date on which such funding was authorized, the source of such funding, and the number of months such railroad has appeared on the list for such location.

(3) The department shall place a railroad on the list at the next regular monthly update after the date such railroad was authorized to receive, or received, any funds administered in whole, or in part, by the department to perform repairs, improvements or upgrades at any railroad crossing.

(b) Any railroad appearing on the list for seven (7) or more consecutive months for the same railroad crossing location shall cause to be published in a newspaper of general circulation serving the area in which the crossing is located a notice stating that:

(1) The railroad has received funds to make repairs, improvements or upgrades at a specified railroad crossing;

(2) The date on which funds were authorized, appropriated or received;

(3) The name and address of the railroad's principal place of business;

and,

(4) A telephone number for citizens to call for further information.

Such publication shall be made bi-monthly until such time as the railroad crossing repair, improvement or upgrade is completed.

(c) Within seven (7) days of appearing on the list for seven (7) or more months, the railroad shall send notification to the department of the content of its notice to be

published pursuant to subsection (a), the name of the publication in which such notice shall appear, and the first month's publication dates.

(d)

(1) Any railroad failing to comply with the publication requirements of subsection (b) shall be assessed a civil penalty of one thousand dollars (\$1000) for every month in which a required publication is not made.

(2) Any railroad failing to comply with the notice requirements of subsection (c) shall be assessed a civil penalty of one thousand dollars (\$1000).

(e)

(1) Any railroad authorized to receive, or receiving, any funds administered in whole, or in part, by the department to perform repairs, improvements or upgrades at any railroad crossing shall notify the department within fourteen (14) days of the completion of such repairs, improvements or upgrades.

(2) The department shall remove a railroad from the list upon receiving proper notice.

(3) It is a complete defense to any civil penalty assessed pursuant to subsection (d) that a railroad, having sent proper notice to the department, had completed any repairs, improvements or upgrades prior to appearing on the list for a seventh or successive month.

SECTION 7. On or before February 1, 2002, the comptroller of the treasury shall undertake a performance audit of the implementation and impact of the Tennessee Railroad Crossing Protection Act of 2001 and shall report findings and recommendations to the transportation committee of the senate and the transportation committee of the house of representatives. An implementation progress report shall be submitted by the department of transportation to such committees on or before February 1, 2002.

SECTION 8. Tennessee Code Annotated, Section 54-1-131(a), is amended by deleting the word "and" at the end of subdivision (1); by deleting the period at the end of subdivision (1) and substituting instead a semicolon and the word "and"; and by adding the following language as a new, appropriately designated subdivision:

(3) A list of railroads performing repairs, improvements or upgrades at railroad crossings pursuant to Section 6 of this act.

SECTION 9. The commissioner is authorized to promulgate rules and regulations to effectuate the provisions of this act.

SECTION 10. Any provision of this act, or the application thereof, which is inconsistent with federal law, rule or regulation shall be deemed to be construed as being consistent with federal law, rule or regulation.

SECTION 11. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 12. For the purpose of promulgating rules and regulations, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect July 1, 2001, the public welfare requiring it.